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c 105 The Pyramidic Sales Repeal Act, 1978

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CHAPTER 105

**An Act to repeal
The Pyramidic Sales Act, 1972**

Assented to December 15th, 1978

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) *The Pyramidic Sales Act, 1972*, being chapter 57, is repealed but, for the purpose of winding up funds established under that Act and paying claims of investors, sections 1, 2, 10, 11, 12, 13, 14, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25 and 26 shall continue to apply in respect of a promoter who held a certificate of acceptance the day before this Act comes into force. 1972, c. 57, repealed

(2) Expressions used in this Act have the same meaning as in *The Pyramidic Sales Act, 1972*. Interpretation

(3) In this Act, “fund” means a fund established as a trust fund under an escrow agreement referred to in subsection 4 of section 12 of *The Pyramidic Sales Act, 1972*. Idem

2. Every fund shall continue to be held in accordance with the escrow agreement under which it was established and, notwithstanding anything to the contrary in any such escrow agreement, no money shall be released from the fund except by the direction of the Registrar or as provided in section 4. Trust funds

3. Every person who is entitled to rescind an agreement under subsection 1 of section 12 of *The Pyramidic Sales Act, 1972* on the day before this Act comes into force may rescind the agreement at any time before the 1st day of June, 1979. Rescission 1972, c. 57

4.—(1) Except for money released therefrom pursuant to a direction of the Registrar, every fund shall be held until the 1st day of January, 1980 after which date the holder of the fund shall apply to a judge of the Supreme Court for direction on the disposition of the fund. Disposition of trust funds

Idem

(2) In making an order under subsection 1, the judge shall consider legal proceedings instituted against the promoter and shall make such provision as he considers necessary to ensure that a sufficient amount of the fund shall be available to satisfy existing or potential judgments against the promoter.

Where escrow
agreement
terminated

(3) Where a holder of a fund intends to terminate the escrow agreement, the holder shall give notice to the Registrar of the intention and upon the Registrar appointing another person to hold the fund, the holder shall turn the fund over to the person so appointed.

Idem

(4) A person appointed under subsection 3 shall hold the fund upon the same terms as the original holder and this Act shall apply to that person as if he were the original holder.

Administrator

5.—(1) There shall be an Administrator who shall be appointed by the Registrar.

Duties of
Administrator

(2) The Administrator may exercise the powers and shall perform the duties conferred or imposed upon him by or under this Act under the supervision of the Registrar.

Idem

(3) The Administrator shall,

- (a) make reasonable efforts to give notice to investors of their entitlement under section 3;
- (b) advise investors as to the manner in which claims for repayment under subsection 3 of section 12 of *The Pyramidical Sales Act, 1972*, may be made against a fund;
- (c) establish procedures for resolution of disputes between a promoter and an investor;
- (d) advise holders of funds of any claims or legal proceedings of which he has knowledge instituted by investors against a promoter;
- (e) retain such staff and obtain such assistance and advice as he considers necessary to carry out his duties; and
- (f) fulfil such other functions as the Registrar considers necessary to ensure the proper disposition of funds.

Expenses
paid out of
interest

6. The Registrar may direct the holder of a fund to pay, out of interest earned on the fund, the reasonable fees and expenses of,

- (a) the holder of a fund where the fees and expenses are incurred as a result of this Act and not otherwise provided for in the escrow agreement establishing the fund; and
- (b) the Administrator incurred in the performance of his duties.

7.—(1) For the purposes of subsection 3 of section 12 of *The Pyramidic Sales Act, 1972*, a commodity is deemed to have been returned on the thirtieth day after the day on which the investor serves notice of rescission on the promoter as provided in subsection 2 of section 12 of *The Pyramidic Sales Act, 1972*. Return of commodity 1972, c. 57

(2) The notice referred to in subsection 1 shall specify the location at which the commodity is located and when it may be picked up by the promoter. Information contained in notice

(3) Notwithstanding subsection 1 of section 12 of *The Pyramidic Sales Act, 1972*, notice of rescission is not required to be given to any person other than the promoter. Where notice not required

8.—(1) Where there has been rescission of an agreement and return of the commodity and the promoter has not paid to the investor the amount that the investor is entitled to receive under subsection 3 of section 12 of *The Pyramidic Sales Act, 1972* within sixty days after notice of rescission has been served, by personal delivery or by registered mail, the investor may apply to the Administrator for repayment out of the appropriate fund, and where the Administrator is satisfied that the commodity has been returned in merchantable condition and that the promoter has not paid to the investor the amount that the investor is entitled to receive under subsection 3 of section 12 of *The Pyramidic Sales Act, 1972*, the Administrator shall recommend to the Registrar that payment be made to the investor out of the fund and the Registrar may direct such payment. Payment out of fund

(2) Notwithstanding any agreement to the contrary, a commodity shall not be deemed not to be in merchantable condition only by reason that cases have been opened, are less than full or are not in the original sealed condition in which they left the promoter's warehouse. Merchantable condition

9.—(1) All certificates of acceptance issued under *The Pyramidic Sales Act, 1972* are withdrawn and nothing in this Act shall be construed as licensing or otherwise permitting a scheme of pyramid selling. Certificates withdrawn

Legal
proceedings
may continue

(2) Notwithstanding subsection 1, any legal proceeding instituted in respect of a certificate of acceptance may be continued.

Exception
to 1972,
c. 57, s. 19

10. Section 19 of *The Pyramidical Sales Act, 1972* does not apply to any person employed in the administration of that Act or in the administration of this Act to prohibit communication of information where the communication is made to an investor for the purpose of assisting the investor in ascertaining or exercising his rights under this Act.

Commence-
ment and
expiry

11. This Act comes into force on the day it receives Royal Assent and is repealed on the 1st day of January, 1981.

Short title

12. The short title of this Act is *The Pyramidical Sales Repeal Act, 1978*.